

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EDWARD POINDEXTER,)	CASE NO. 4:09CV3112
)	
Petitioner,)	
)	
v.)	MEMORANDUM
)	AND ORDER
DENNIS BAKEWELL, ESTHER)	
CASMER, and ROBERT HOUSTON,)	
)	
Respondents.)	

This matter is before the court on Petitioner's Motions to Dismiss.¹ (Filing Nos. [7](#) and [8](#).) Petitioner seeks dismissal of his Petition without prejudice "for health reasons." (Filing No. [7](#) at CM/ECF p. 1.)

Petitioner's Motion to Dismiss is granted in accordance with [Federal Rule of Civil Procedure 41\(a\)\(1\)](#) and [Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts](#). This matter is dismissed without prejudice.²

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion to Dismiss (Filing No. [7](#)) is granted and this matter is dismissed without prejudice;
2. Petitioner's second Motion to Dismiss (Filing No. [8](#)) is denied as moot; and

¹Petitioner mailed identical Motions to Dismiss to the court and to the clerk's office. (Filing Nos. [7](#) and [8](#).) The clerk's office filed both motions in his case. (See [Docket Sheet](#).)

²Although the court will dismiss the Petition "without prejudice," the court makes no determination of the truth or falsity of Petitioner's health claim; the court makes no determination whether a subsequent petition would constitute a second, successive, or abusive petition barred by the provisions of [28 U.S.C. § 2244\(b\)&\(c\)](#), and [Rule 9 of the Rules Governing Section 2254 Cases in the United States District Courts](#); and, finally, the court makes no determination whether a subsequent petition would be barred by the one-year statute of limitations found in [28 U.S.C. § 2244\(d\)](#). By moving to dismiss, Petitioner has assumed the risk that he may be precluded from filing another petition.

3. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 3rd day of August, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge

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